

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

WILFREDO ALFARO ACOSTA,

Plaintiff

v.

**9:22-CV-1259
(GTS/ML)**

UNITED STATES OF AMERICA

Defendant.

**Glenn T. Suddaby,
U.S. District Judge**

DECISION & ORDER

Plaintiff sued the Defendant United States of America pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2674 (“FTCA”). Plaintiff, a federal prisoner, alleged that he had injured his ankle while working a federal prison job. After being served with the Complaint, the United States filed a motion to dismiss, alleging that the Court lacked subject matter jurisdiction. The Court referred the matter to the Hon. Miroslav Lovric, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

Judge Lovric’s Report-Recommendation, issued on October 17, 2023, recommends that the Court grant the government’s motion and dismiss the case. Judge Lovric finds that the Inmate Accident and Compensation Act, 18 U.S.C. § 4126(c), provides the exclusive remedy for federal inmates who suffer work-related injuries. Plaintiff’s complaint

here relies on the FTCA, and the Court lacks subject matter jurisdiction to hear Plaintiff's claims brought under that Act.

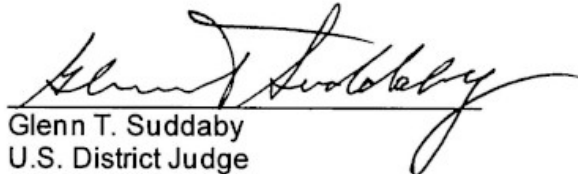
Plaintiff did not object to the Report-Recommendation. The time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly:

It is therefore **ORDERED** that Judge Lovric's Report-Recommendation, dkt. # 21, is hereby **ACCEPTED** and **ADOPTED**. Defendant's motion to dismiss for lack of subject matter jurisdiction, dkt. # 13, is hereby **GRANTED**. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: January 3, 2024
Syracuse, New York


Glenn T. Suddaby
U.S. District Judge